

Even if motor fuel is dyed in accordance with the statute, it is only exempt from the Motor Fuel Tax if it is actually used for non-highway purposes. See 35 ILCS 505/2. (This is a GIL.)

January 24, 2006

Dear Xxxxx:

This letter is in response to your letter dated September 18, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC received assessment #. In reviewing the assessment ABC was charged IL road taxes \$.215 on dyed fuel. ABC hereby request [sic] a legal ruling on the charging of this tax on dyed fuel. ABC believes charging \$.215 is incorrect in that the State Of IL. Charges penalties and fines for using dyed fuel on the roads as does the Federal Government. I appreciate you [sic] prompt response.

DEPARTMENT'S RESPONSE:

The Motor Fuel Tax Law, 35 ILCS 505/1 et seq., imposes a tax upon the use of motor fuel upon the highways of this State (See 35 ILCS 505/2). Fuel used for non-highway purposes, as provided in the Act, is not subject to Motor Fuel Tax. Section 5 of that Law (35 ILCS 505/5) provides that "[a]ll special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law." But, even if motor fuel is dyed in accordance with the statute, it is only exempt from the Motor Fuel Tax if it is actually used for non-highway purposes.

In addition, if motor fuel is lost as the result of evaporation or shrinkage due to temperature variations and that loss does not exceed 1% of the total gallons, then the motor fuel lost in this way, up to the 1% amount, is not subject to the Motor Fuel Tax. But, any loss reported that is in excess of 1% is subject to the Motor Fuel Tax. So, if a return is filed showing an evaporation loss of dyed fuel

that exceeds 1% of total gallons, any amount in excess of 1% is subject to tax, notwithstanding that the lost fuel was dyed fuel.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk

Cc: Roland Marr
Motor Fuel Division Manager